

# Notice of Allowability

Application No.

09/247,418

Examiner

Kevin R Kruer

Applicant(s)

EGGERS ET AL.

Art Unit

1773

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to The Appeal Brief filed January 8, 2004.
2. ☒ The allowed claim(s) is/are 2-10, 12-24 and 26-31.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All   b) ☐ Some\*   c) ☐ None   of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 2/10/1999
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 4/20/2004.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

***Notice of Allowance***

***Examiner's Amendments***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William Gerstenzang on Tuesday, April 27, 2004.

The application has been amended as follows:

In the second line of claim 4, the word "play" has been deleted, and the word - - ply- - has been inserted in place thereof.

In claim 5, the dependency has been changed from claim 31 to claim 4.

In the second line of claim 5, the word "play" has been deleted and the word - - ply- - has been inserted in place thereof.

In claim 7, the dependency has been changed from claim 31 to claim 6.

In claim 9, the dependency has been changed from claim 31 to claim 8.

In claim 10, the dependency has been changed from claim 31 to claim 9.

In the second line of claim 12, the word "play" has been deleted, and the word - - ply- - has been inserted in place thereof.

In the last line of claim 13, the word - -an- - has been inserted before the phrase " $\alpha$ -olefin."

In the first line of claim 15, the word - -the- - has been inserted before the phrase " $\alpha$ -olefin."

In the last line of claim 17, the word - - an- - has been inserted before the phrase " $\alpha$ -olefin."

In claim 18, the dependency has been changed from claim 31 to claim 13.

In the third line of claim 18, the word - - the- - has been inserted before the word "content."

In the fifth line of claim 18, the word - -the- - has been inserted before the word "content."

In the last line of claim 18, the word - - an- - has been inserted before the phrase " $\alpha$ -olefin."

In the last line of claim 18, the word - -a- - has been inserted before the word "density."

In claim 19, the dependency has been changed from claim 31 to claim 17.

In the third line of claim 19, the word - - the- - has been inserted before the word "content."

In the fifth line of claim 19, the word - -the- - has been inserted before the word "content."

In the last line of claim 19, the word - - an- - has been inserted before the phrase " $\alpha$ -olefin."

In the last line of claim 19, the word - -a- - has been inserted before the word "density."

In claim 20, the dependency has been changed from claim 31 to claim 18.

In the second line of claim 20, the word - - an- - has been inserted before the phrase " $\alpha$ -olefin."

In the second line of claim, the phrase - - having a density of 0.90 to 0.94g/cm<sup>3</sup>- - has been inserted after the phrase " $\alpha$ -olefin."

In the second line of claim 22, the phrase "characterized in that it is" has been deleted.

In the third line of claim 22, the word "metlting" has been deleted, and the word - -melting- - has been inserted in place thereof.

In the third line of claim 22, the phrase "in that its" has been deleted.

In the third line of claim 22, the word - - a- - has been inserted before the word "ratio."

In the last line of claim 22, the word "is" has been deleted and the word - -of- - has been inserted in place thereof.

In the preamble of claim 26, the word "sealed" has been deleted and the word - - sealable- - has been inserted in place thereof.

In the last line of claim 27, the word - - and - - has been inserted in front of the word "polystyrene."

On page 9, line 24 of the specification, before the paragraph beginning with the phrase "The object," the section heading - -BRIEF SUMMARY OF THE INVENTION- - has been inserted.

Art Unit: 1773

On page 10, line 12 of the specification, before the paragraph beginning with the phrase "The sequence," the section heading - -DETAILED DESCRIPTION OF THE INVENTION- - has been inserted.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

The claims are allowable because the prior art fails to teach a heat sealable laminate comprising a substrate and a multiply heat sealable layer consisting of (i) an outer layer having a melt flow rate of at least 0.1g/10min and (ii) at least one inner ply having a MFR greater than the MFR of the outer ply and comprising at least 40% of the weight per unit are of the multiplied laminate.

The closest prior art is Paleari et al. (US 6,110,570) and Hodgson, Jr (US 5,206,075). Paleari teaches a multi-layer heat shrinkable film comprising (a) a heat sealable layer, (b) an inner layer having a melt index is less than 1.0, preferably less than 0.5, more preferably less than 0.40, and most preferably less than 0.35g/10min (col 6, lines 31-38). The overall thickness range of the laminate is 50-100microns, wherein the heat seal (a) is at least 6-30microns, and the inner layer (b) has a thickness of preferably 10 or higher (col 9, lines 51-59). Paleari teaches that the heat seal layer (a) may comprise the heat seal composition disclosed in Hodgson. Hodgson teaches a heat seal composition comprising a copolymer having a melt index in the range of 0.5-7.5g/10min (abstract). When the film of Paleari is heat sealed, the heat seal layer (the layer with the higher melt flow index) is adjacent to a substrate.

Art Unit: 1773

The claims are patentably distinguished from Paleari and Hodgson because the layers are arranged in the opposite sequence as the claimed invention in that the low MFR polymer is the inner ply of the film. Furthermore, sealing the film to a substrate would make the film lose its function as a heat sealing layer. Since the claims are directed to a heat sealable composite film, the claims are distinguished from any embodiment wherein the outer layer of Paleari is sealed to a substrate. Thus, Paleari in view of Hodgson neither teaches nor renders obvious the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin R Kruer whose telephone number is 571-272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Thibodeau can be reached on 571-272-1516. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1773

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin R. Kruer  
Patent Examiner-Art Unit 1773



Paul Thibodeau  
Supervisory Patent Examiner  
Technology Center 1700